

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

HEARING DATE: October 31, 2017
HEARING TIME: 11:15 A.M.
HEARING PLACE: Utica

IN RE: **JON R TYSON,**

Debtor(s).

Chapter 13
Case No. **17-60979**

NOTICE AND MOTION TO DISMISS

NOTICE IS HEREBY GIVEN that this motion will be heard as follows:

DATE: **October 31, 2017**

TIME: **11:15 a.m.**

PLACE: **U.S. Courthouse, Room 236, 10 Broad Street
Utica, New York 13501**

Pursuant to 11 U.S.C. §1307(c) Mark W. Swimelar, the Chapter 13 Trustee will move for an Order dismissing the above captioned matter for the following cause:

Unreasonable delay by the debtors that is prejudicial to creditors;

- ▶ That the debtor failed to appear at the first Meeting of Creditors scheduled for **August 28, 2017**.

Failure to commence making timely payments under 11 U.S.C. § 1326;

- ▶ That the debtor failed to make the first payment of **\$642.00 due on August 27, 2017**. The September payment will become due on the 27th.
- ▶ That the debtor is currently **\$642.00** in arrears through August 2017.
- ▶ That the Trustee has not received a payment since the commencement of the case.

WHEREFORE, the Trustee respectfully requests that the motion to dismiss be granted, and such further relief as the Court deems appropriate.

IF YOU INTEND TO OPPOSE THIS MOTION, WRITTEN OPPOSITION MUST BE FILED WITH THE CLERK OF THE COURT AND SERVED ON MOVANT'S COUNSEL AT LEAST SEVEN (7) DAYS PRIOR TO THE RETURN DATE. IF YOU DO NOT FILE AND SERVE WRITTEN OPPOSITION, NO HEARING WILL BE HELD ON THE RETURN DATE AND THE COURT MAY GRANT THE MOTION AS UNOPPOSED.

Dated: Syracuse, New York
September 22, 2017

Mark W. Swimelar, Chapter 13 Trustee

BY: /s/ Lynn Harper Wilson
Lynn Harper Wilson, Staff Attorney
Bar Roll No. 509576
250 S. Clinton Street, Suite 203
Syracuse, New York 13202
(315) 471-1499
Email: lhwilson@cnytrustee.com

CERTIFICATE OF SERVICE

DEBRA J. PARAH certifies that she is, and at all times hereinafter mentioned was, an employee in the office of the Standing Chapter 13 Trustee and over the age of 18 years;

That on September 22, 2017, she served the within Notice and Motion to Dismiss on the below named at the address listed below, by depositing a true copy of same enclosed in a post-paid, properly addressed wrapper under the exclusive custody of the United States Post Office Department in an official depository within the State of New York.

JON R TYSON
1040 OLD MARKET ROAD
WEST STOCKHOLM, NY 13696

And she hereby certifies that she electronically filed the foregoing with the Clerk of the Bankruptcy Court using CM/ECF system which sent notification of such filing to the following:

WILLIAM K. HARRINGTON, UNITED STATES TRUSTEE

NEIL T BHATT ESQ
LEKKI HILL DUPREY & BHATT PC
21 COURT STREET
CANTON, NY 13617

/s/ Debra J. Parah
Debra J. Parah